

Division Bench

P.R. No.

Presented by Sri. Anand Keshavam

dated

66/03

06-01-05

(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (CG)
WRIT PETITION NO. 164 OF 2005

BETWEEN

Chainee S/o Shri Chhotahari, ^{aged 65 years &} Points Man 'A', resident of
H.NO. 10/1, Railway Colony, Kargi Road, District
Bilaspur (CG).

PETITIONER

A N D

1. Union of India, through the Secretary
Ministry of Railways, Rail Bhavan, New Delhi.
2. The General Manager,
South Eastern Railway, Garden Reach,
Calcutta .
3. Sr.Divisional Personnel Officer,
South Eastern Division,
Bilaspur, District Bilaspur (CG).

RESPONDENTS

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION
OF INDIA

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

सामला क्रमांक WP 164 सन् 2005

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	BE: HON'BLE SHRI L.C. BHADOO & HON'BLE SHRI DHIRENDRA MISHRA, JJ 28.1.2005 Smt. Indira Tripathi, counsel for the petitioner. Shri Vinay Harit, Sr. Counsel with Shri Ashok Dixit, counsel for the petitioner. By the instant petition the petitioner has questioned the correctness and legality of the order-dated 27.4.1994 passed by Assistant Operating Manager (Safety), S.E.C Railway, Bilaspur, order-dated 13.12.1994 passed by Divisional Safety Officer, S.E.C Railway, Bilaspur & order-dated 22.9.2003 passed by Central Administrative Tribunal, Bench at Jabalpur. We have heard learned counsel for the petitioner for admission. The circumstances under which the present petition has been filed are that on a surprise inspection at about 4.25 hours on 6.10.1992 the petitioner was found sleeping on duty under the influence of alcohol while working as CLM/East Cabin, Kargi Road Station. Accordingly, in the year 1994 a departmental enquiry was instituted against the petitioner for major penalty, after enquiry the petitioner was found guilty of misconduct and vide order dated 27.4.94 the petitioner visited with the penalty of removal from the services. In appeal preferred by the petitioner the order of punishment of removal was converted into reduction in rank i.e. to the post of Porter at the basic pay of Rs.750/- per month. However, the intervening period of removal from the service was treated as break in service. Being	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक (पूर्वानुबन्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	dissatisfied with the above order the petitioner approached the Central Administrative Tribunal, Bench at Jabalpur where the Tribunal also reached to the conclusion that the disciplinary authority as well as appellate authority were right in passing the impugned orders and that action was held valid by the Tribunal. However, the matter was remanded back to the disciplinary authority to consider the case of break in service as that would mean that the entire service of the petitioner till his removal would be totally washed away and he will not be entitled for grant of pensionary benefits. On receiving the matter back the competent authority in view of the direction of the CAT pass the order treating the intervening period included for the purpose of pensionary benefits. Thereafter, again the petitioner approached the Tribunal in the year 1999 and the Tribunal dismissed the O.A. filed by the petitioner vide order dated 22.9.2003. Learned counsel for the petitioner submits that the petitioner has been held guilty for misconduct without any evidence, without giving any opportunity of hearing and break of service for the purpose of salary was also not considered, therefore, the impugned orders are illegal. We are afraid that such a plea cannot be allowed to raise at such a belated stage, before the tribunal also no such plea was raised. Moreover, looking to the seriousness of misconduct on the part of the petitioner, the authorities have already taken the lenient view and we do not find any illegality or infirmity in the impugned orders so as to interfere with the findings of the Disciplinary Authority, Appellate Authority & Central Administrative Tribunal. Even in the first round	

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	of litigation in O.A. No.208/95 the Tribunal has held that the orders of Disciplinary & Appellate Authorities are valid. Therefore, we are of the considered view that there is no merit in this matter, same is liable to be dismissed and it is, accordingly, dismissed at the admission stage itself.	
	Sd/- L.C. Bhadoo Judge	Sd/- Dhirendra Mishra Judge
Reshant		